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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-eighth session
Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Letter dated 19 August 1996 from the Chargé d'affaires, a.i. of the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Chairman of the forty-eighth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

GE.96-13526 (E)

Situation of Yugoslav national minorities in the Republic of Albania and Albania's support of separatism in Kosovo and Metohija

The new Government of the Republic of Albania, set up in the aftermath of the recently held elections characterized by massive irregularities and by non-democratic steps taken by the authorities, severely denounced by the OSCE, the Council of Europe, the European Parliament and many influential members of the international community, is further pursuing its greater Albania policy of encouraging ethnic Albanian separatism and of interfering in the internal affairs of its neighbours. Thus, the Albanian Government considers the "Albanian national question" as its foreign policy priority, while failing to inform of its own intentions concerning the respect for the rights of national minorities in that country, even though it is bound to do so as a member of the Council of Europe, as well as under the United Nations and OSCE documents.

On several occasions, some European institutions have denounced the Republic of Albania for not honouring the rights of national minorities. Within United Nations forums, it is well known that Albania does not recognize the rights of over 50,000 members of Yugoslav minorities - ethnic Serbs, Montenegrins and Gorans - of Orthodox or Muslim confession. The national minority status of these minorities is not being recognized, they are not entitled to official use of their mother tongue, they have no education, no schools, no media, no cultural institutions of their own, nor are religious services being rendered in their mother tongue. As for the Serb-Montenegrin cultural and historical heritage, as well as their sacral sites (churches and cemeteries), they were demolished long ago.

Aiming at their assimilation, the Albanian authorities have tried to expropriate their property and to expel them from their ancestral homes in the villages of Mali and Veliki Boric, the district of Skutari. They have exerted pressure by intimidating the leaders of the "Moraca-Rozafa" Serb-Montenegrin Association by planting explosive devices in front of their homes, thus preventing the members of this Association taking part in the cultural and folklore manifestations held in their mother country - the Federal Republic of Yugoslavia. At the same time, without any reason, the members of these minorities have been exposed to police interrogation.

The latest example of the Albanian authorities' repression is their forcing many ethnic Serbs and Montenegrins in the district of Skutari and in other parts of the country to retake Albanized personal and family names.

Under the Albanian "Law on Amending and Changing of some Laws", No. 7682, of 9 March 1993, Albanian citizens have been entitled to apply for retaking their original names, forcibly Albanized during the dictatorship. For example, in the Vraka settlement alone, some 560 out of the 1,200 ethnic Serbs and Montenegrins have retaken their original Serb names. In spite of this, the State secretary for local government has suspended this law in practice by prohibiting the local authorities to issue passports to ethnic Serbs and Montenegrins carrying their original personal and family names.

This attempt to de-nationalize the Serb and Montenegrin minorities is a drastic case of human rights violation. Thus, while declaring itself a

democratic State, Albania offers yet another example of jeopardizing the national identity of ethnic Serbs and Montenegrins, flagrantly ignoring all relevant international documents, as well as the United Nations and OSCE principles.

Assisted by influential international factors, the new Albanian Government is intensifying its efforts to put the issue of Kosovo and Metohija on the agenda of international forums. Its intention is to prevent the international community from getting an insight into the undemocratic practices and the flagrant violation of human rights and rights of national minorities exercised in Albania itself.

On the international scene, Albania is coordinating its activities with the separatist leaders of Kosovo and Metohija, advocating its independence, i.e. its secession as a "just solution", even though Kosovo and Metohija is an integral part of the Republic of Serbia and the Federal Republic of Yugoslavia. Moreover, some countries and individuals maintain contacts with separatist leaders of Kosovo and Metohija, thus nurturing their secessionist aspirations.

The Federal Republic of Yugoslavia would appreciate the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities offering protection to the members of the Yugoslav minorities in the Republic of Albania and obliging it to consistently honour in practice the rights of minorities, in compliance with the United Nations and the OSCE principles.

(Signed) Miroslav Milosevic
Chargé d'affaires a.i.

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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
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of Minorities
Forty-eighth session
Agenda items 6, 10 and 18 (b)

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

FREEDOM OF MOVEMENT: POPULATION DISPLACEMENTS

Letter dated 15 August 1996 from the Permanent Representative of the People's Republic of China to the United Nations Office at Geneva addressed to the Chairman of the forty-eighth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

With reference to the written statements submitted by some non-governmental organizations contained in the Sub-Commission documents, I would like to provide a "Brief introduction of the Progress of Human Rights in China"* and to request you kindly to circulate it as an official document of the forty-eighth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, under items 6, 10 and 18 (b).

(Signed): WU Jianmin
Ambassador
Permanent Representative

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* The annex is circulated in the language of submission only.

A Brief Introduction of the Progress of Human Rights in China

In November 1991 the Chinese government published the white paper *Human Rights in China*, which made clear to the international community China's basic position and practice on human rights. In the last four years the cause of human rights in China has seen new progress.

The four years since 1991 marked an important historical period for the overall implementation of the *Eighth Five-Year Plan for National Economic and Social Development*. National economic and social development in China has advanced by leaps and bounds. The plan to quadruple the 1980 GNP by 2000 was realized ahead of schedule in 1995. The Chinese people's life has improved greatly, and they are working hard to achieve a comfortable life. Today political stability, economic development and social progress are characteristics of China's new social order, along with ethnic unity, domestic harmony and a continually rising standard of living, thereby demonstrating the overall improvement in human rights. Practice has proved that it suits China's conditions and the basic interests of all the Chinese people to give priority to the people's right to existence and to development and improve the situation of human rights in an all-round way under circumstances of reform, development and stability. This has won worldwide recognition.

While paying great attention to the people's right to existence and development, China has also laid stress on ensuring that its citizens enjoy various civil and political rights according to law and that socialist democratic politics be practiced and developed. That is an important reason why China's economy has developed rapidly.

In China all power belongs to the people. This is the nucleus and basic principle of China's state system and also the essence of socialist democracy in China. The National People's Congress and people's congresses at various levels are the organs whereby the people exercise state power.

Deputies to people's congresses at various levels total 3.65 million are all democratically elected. China's *Constitution* stipulates that all citizens of the People's Republic of China who have reached the age of 18 have the right to vote and stand for election, regardless of nationality, race, sex, occupation, family background, religious belief, education, property status, or length of residence, except persons deprived of their political rights according to law. In line with China's conditions, deputies to the people's congresses of counties and townships are elected directly by the people, and deputies to the NPC and people's congresses of provinces, autonomous regions and municipalities directly under the Central Government are elected by people's congresses at a lower level. By the end of 1993, elections for the new session had taken place in accordance with the law in 2,897 counties(including cities without districts and districts directly under the cities) and 48,172 townships, ethnic-group townships and towns. According to statistics, people having the right to vote and to stand for election

accounted for 99.97 percent of the number of citizens 18 years old or above, and the number of registered voters accounted for 99.3 percent of the total population aged 18 or above. Elections in China are not controlled by money, and candidates trusted by the people are elected after free consultation and discussion and by secret ballot. Multicandidate elections are practiced in China. Voters showed high political enthusiasm and the voting rate reached 93.85 percent throughout the country.

Deputies to the people's congresses, representing people of every profession and social stratum, exercise State power and are responsible to the people and supervised by the people. Voters or electoral units have the right to recall their deputies. Any citizen or unit may demand the recall of deputies who break the law, violate discipline or seriously neglect their duties. In February 1995 the NPC Standing Committee amended the *Electoral Law for National People's Congress and People's Congresses at Local Levels* and the *Organic Law of the Local People's Congresses and Local People's Governments*, thereby further perfecting the electoral and recall systems for people's deputies. This is an important guarantee for the people and deputies to the people's congresses to earnestly exercise democratic power, be masters of the country and participate in decision-making in State affairs.

As the supreme organ of State power, the National People's Congress has the power to make decisions on State policies and principles, enact basic statutes and elect and supervise State administrative, judicial and procuratorial organs.

People's congresses at various levels and their standing committees have paid great attention to ensuring the rights of the deputies. State organs and relevant departments at various levels have to make direct replies within a prescribed time to the deputies with regard to their queries, opinions and suggestions formally put forward at the sessions.

In recent years China's democratic progress at the grass-roots level has also achieved remarkable results. By the end of 1994 more than 100,000 urban neighborhood committees had been set up, and more than one million village committees had been elected by secret ballot in the countryside. These urban neighborhood committees and village committees are grass-roots mass self-government organizations. They handle public affairs and public welfare, mediate disputes among people, help safeguard the social order and transmit opinions, demands and suggestions to the people's governments. A system of village meetings, where important things are decided by the villagers, has been set up in half the village committees. Urban and rural people are organized in line with democratic principles, and they practice self-government, self-education, self-service and direct democracy. This is an important progress in China's socialist democratic political system.

The Administrative Procedural Law, effect since October 1, 1990, is an important law ensuring people's civil rights. It stipulates that citizens, legal persons, and other

organizations may start legal proceedings against administrative organs and their staff when their legal rights and interests are infringed upon by specific administrative actions of these organs and persons. People consider the *Administrative Procedural Law* as a "law to facilitate people to lodge complaints against officials."

To ensure implementation of the *Administrative Procedural Law*, the State Council issued a *Notice on Implementing the Administrative Procedural Law* and required that all Ministries and departments under the State Council and local people's governments at different levels actively cooperate with people's courts to strictly enforce laws. The State Council also promulgated the *Administrative Reconsideration Regulations* as complementary regulations for the implementation of the *Administrative Procedural Law*. Study classes for the *Administrative Procedural Law* have been organized by many administrative organs.

In accordance with the stipulations of this law, the system of social organizations supporting citizens to file suit and ensuring that citizens can lodge appeals has been established. The social organizations are legal representatives when they are entrusted, and citizens can exercise their right to lodge appeals with the support of the social organizations.

In May 1994 the *State Compensation Law* was worked out. This law stipulates that if the legal rights and interests of citizens are infringed upon by State organs and their staff in exercising their functions and powers, the aggrieved persons have the right to get State compensation in accordance with the law. At present, compensation committees have been established in the intermediate people's courts and above, and they have started to accept compensation cases.

Freedom of religious belief in China is guaranteed by law. Normal activities of different religions can be carried out in China according to their rights prescribed by the *Constitution* and law.

In recent years China has promulgated and put into effect the *Police Law*, the *Public Procurators Law*, the *Judges Law*, the *Prison Law* and a series of other laws. In addition, many other measures have been taken to further strengthen judicial work in safeguarding human rights.

"People's police work for the people." This is a popular saying among the Chinese people. In order to standardize the conduct of the people's police in safeguarding human rights, China has promulgated and implemented the *Police Law* since February 1995. It stipulates that the police enforce the law strictly to effectively safeguard the security of the people and give timely help and assistance to citizens whose personal safety and that of their property are infringed upon; it strictly forbids the police to unlawfully deprive citizens of or curtail their freedom of person; the police, while performing their duties, must accept the supervision of society and its citizens; citizens

have the right to report to the department concerned and bring a charge against police who have acted against the law and discipline.

The *Public Procurators Law* and the *Judges Law* were promulgated in February 1995 and went into force in July of the same year. These two laws stipulate that public procurators and judges have the right, according to law, to independently exercise procuratorial power and judicial authority without interference from any administrative organs, social communities or individuals; they must base themselves on fact, take law as the criterion, handle a case impartially and be honest in performing their official duties in all judicial activities. These principles, set in the past, are now further standardized, specified and implemented more strictly. The law-enforcement level of the court and procuratorate has been raised remarkably.

China's *Criminal Law* has set clear demarcations between crime and non-crime. Only those who have violated the law are dealt with according to law. Included in China's *Criminal Law* are crimes of counterrevolution, which refer to crimes that endanger State security and aim at overthrowing the political power of the country, namely, acts with the subjective goal of overthrowing the political power of the country and acts that objectively endanger State security. Those who hold differing political views, but engage in no act endangering State security, commit no crime.

Following the principle of combining punishment with reform and education with labor, Chinese prisons aim at reforming criminals and turning them into law-abiding citizens. The chief means to achieve this goal is education, including education in law, ethics, culture and technology. Meanwhile, prisoners are organized to participate in whatever labour they are capable of.

In December 1994 China promulgated and put into force the *Prison Law*, 20 of whose 78 articles are related to the protection of prisoners' rights. Article 7 in the General Provisions states clearly: "Prisoners have the right of immunity from insult to their dignity and from infringement on their personal security and legal property; they have the right of defense and the right of appeal, complaint and accusation as well as other rights that have not been taken away or curtailed by law." The Prison Law also stipulates specifically that prisoners have the right of immunity from corporal punishment and abuses, the right of appeal, the right of communication, the right of meeting visiting family members and relatives, the right to education, the right to rest, the right to receive remuneration for work, the right to labor protection and labor insurance, and the right to receive medical treatment; they enjoy equal rights with other citizens upon their release after completing their sentence term. In order to safeguard the proper rights of prisoners, the Prison Law sets strict and concrete demands on prison police. Article 14 lists all the offenses against the law that are prohibited while prison police perform their duties. Standardization of the conduct of prison prevents infringement on the legal rights of prisoners.

Concerning the human rights situation in the Tibet Autonomous Region, we would like to provide some basic facts and information as follows.

Before the democratic reform of 1959, Tibet was a theocracy erected over a system of serfs ruled by monks and aristocrats. As such it was more cruel, more blighted than even the serfdom of medieval Europe. The feudal monastic order which held hereditary ownership of 95% of the people of Tibet was protected by elaborately codified laws. The *Thirteen Statutes* and *Eighteen Statutes* observed for centuries by old Tibet ensured the inequality of all by separating people into three castes and nine categories.

Since its peaceful liberation in 1950, particularly since its 1959 democratic reform, Tibet has undergone a momentous transformation. The government of China, upholding the principle of equality for all ethnic nationalities in accordance with the *Constitution* and relevant laws, has scrupulously protected the legitimate rights of minority peoples. Tibetans, like all other nationalities of China, enjoy every democratic right guaranteed by the *Constitution* and the laws. Through different channels and in various ways, they have the right to oversee the running of the State and to manage economic, cultural and social affairs. They enjoy the freedoms of religious belief, of speech, of the press, of assembly, of association, of procession and of demonstration. In addition, the people of Tibet also enjoy the special rights and freedoms as defined by the *Law on Regional National Autonomy*. These include the right to set up organs to exercise self-government; the freedom to use and develop the Tibetan language; and the freedom to preserve or reform their own folkways and customs. At present, of the 60,000 cadres serving in Tibet, over 70% are native Tibetans. The directors of people's congresses at different levels, the chairman of the people's government, the chief justice and the chief procurator in the Autonomous Region are all Tibetans. Tibetan women, who used to be relegated to the very bottom of the society, have also begun to take up leadership positions. Women cadres now account for over 30% of the total number.

The Central Government has provided active support and formulated special policies for the development of Tibet. It is estimated that, over the last 40 years, the financial subsidies and investment in basic constructions provided by the State to the Tibet Autonomous Region have totaled 20 billion yuan. All the major construction projects undertaken in Tibet, both ongoing and recently completed, have received State support through investment. In these 40 years, Tibet has started to acquire a modern infrastructure of industry, transport and energy sources. Its industrial sector can now produce textiles, building material, manufactured goods, electricity, processed ores and foods. In the meantime, it has maintained its traditional handicraft as well as the agriculture and animal husbandry that traditionally form the bases of its economy. Its commerce is flourishing; its people are living better and better. Its social progress and economic development have brought about a higher living standard. Life expectancy of Tibetans has increased from 36 before the liberation to 65 today.

The Central Government has always placed emphasis on the preservation and propagation of the splendid ancient culture of Tibet. Both the Central Government and the government of the Tibet Autonomous Region observe a policy of preserving and developing Tibet's historical heritage and its folkways. Much effort has gone into the systematic recording, collection, classification, research and publication of the folk tradition of Tibet. Tibetan is the language universally spoken and written in Tibet. In the widest sense, the traditional customs of the Tibetan people are respected and their cultural sites are maintained and protected with great care.

Education in the old Tibet was extremely backward. Among the 2,000 dispensers of monastic instruction, not one was a school in the real sense. Needless to say, serfs and slaves had no opportunity at all to receive any schooling. It was not until the founding of the first elementary and middle schools in Lhasa, respectively in 1952 and 1956, that a genuine start was made in providing education. Since then, Tibet has built up an all-round pedagogical system that ranges from kindergartens to university and academies, from vocational training to adult and TV education. Special Tibetan studies form part of the curricular contents. As of 1994, there were altogether 3,500 institutions of learning of different levels and specializations in Tibet, including: 4 higher institutions---Tibet University, Institute for Nationalities and two others; 16 technical schools specializing in teachers' training, agronomy, animal husbandry and finance; 70 middle schools; 3,400 elementary schools.

Total student enrollment in 1994 grew to 270,000, of whom the vast majority was Tibetans and other minorities. In addition, the Tibet Autonomous Region has an affiliation with facilities in 21 provinces and municipalities set up over 70 secondary technical schools specifically for Tibetan students studying in the interior of China.

The government of China has never formulated or carried out an immigration program in Tibet. In no time whatsoever the number of Hans living in Tibet exceeds the population of native Tibetans. This is easily illustrated by the following figures. At the time of Tibet's peaceful liberation in 1951, the local government of Tibet could provide no accurate statistics on population. In 1953, when China conducted its first nation-wide census, the territorial government of Tibet at the time reported a population figure of 1 million. The second nation-wide census in 1964 found the population of Tibet to be 1.251 million, of which 1.209 million, or 96.63% of the total, were Tibetans. According to the third nation-wide census, the population of Tibet in 1982 stood at 1.892 million, of which 1.786 million, or 94.4% of the total, were Tibetans. The fourth census, taken in 1990, saw the ratio of Tibetans rising again to 95.4%--2.096 million out of a total of 2.196 million. At the end of 1994, the population of Tibet had reached 2.4 million. Of this total, native Tibetans accounted for 96.%, i.e. 2.236 million. In other words, Hans and other nationalities have never exceeded 5% of the population of Tibet. The census of 1990 showed that there were altogether 4.56 million--not 6 million--people of Tibetan nationality in the whole country, resident in the Autonomous

Region as well as elsewhere in China.

The Central Government, striving for even development and common prosperity, has in the last decades made special efforts to enable Tibet emerge as quickly as possible from its state of serious poverty and underdevelopment. For this purpose, besides providing subsidy, tax breaks, direct investment and other forms of assistance, the government has also mobilized from other provinces and regions human and material resources to contribute technical input to the construction of Tibet. Thus, in rotating fashion, specialists and technical personnel from other regions have gone to Tibet to serve alongside native Tibetans in economic and cultural ventures. Some have ended dying there. Strictly speaking, these cannot be termed immigrants, for they return home after a few years. According to the census, in 1990 there were 81,000 Han nationals working in Tibet, no more than 3.7% of the total population. By 1994, their number had decreased to 66,000, a mere 2.8% of the total.